

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIAM HELMER,

Plaintiff,

Case No. 09-cv-11697

v.

Honorable Patrick J. Duggan

BRIAN GUEST, KATHLEEN SOLOMON,
COUNTY OF OSCODA, KEVIN GRACE,
DAVE STENZEL, ED POKRZYWNICKI,
and RONALD NIGHTINGALE,

Defendants.

ORDER

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan, on November 17, 2010.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

On September 7, 2010, Magistrate Judge Mona Majzoub issued an Opinion and Order [Dkt. #77] granting in part Plaintiff's Motion for Leave to Amend Complaint. In that Order, Magistrate Judge Majzoub granted Plaintiff leave to amend his Complaint with respect to his claims against several Defendants in their individual capacities, including Michigan State Police Detective Ronald Nightingale. On September 16, 2010, Plaintiff filed a document entitled "Objection and Appeal of Magistrate's Order and Opinion," agreeing with the Order, but seeking clarification as to whether he could maintain a claim for damages against Detective Nightingale in his individual capacity. The Court received

no response to this “Objection.”

Magistrate Judge Majzoub’s Order noted that a claim for damages against Detective Nightingale in his official capacity would be futile because he is a state official. *See Thiokol Corp. v. Dep’t of Treasury, Revenue Div.*, 987 F.2d 376, 381 (6th Cir. 1993). The Order, however, specifically permitted Plaintiff to assert individual capacity claims against Detective Nightingale, and Plaintiff’s Amended Complaint asserts such claims, including a claim for damages. The Court therefore concludes that Plaintiff’s objection is moot.

Accordingly,

IT IS ORDERED that Plaintiff’s Objection and Appeal of Magistrate’s Order and Opinion is **REJECTED AS MOOT**.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:

Adam Purnell

William Helmer, #140677
Bellamy Creek Correctional Facility
1727 West Bluewater Highway
Ionia, MI 48846